

MEMORANDUM

December 3, 2018

TO: Mayor and Council

CC: Sadhu Johnston, City Manager
Paul Mochrie, Deputy City Manager
Lynda Graves, Administration Services Manager, City Manager's Office
Rena Kendall-Craden, Communications Director
Katrina Leckovic, City Clerk
Neil Monckton, Chief of Staff, Mayor's Office
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Kaye Krishna, General Manager, Development Building and Licenses
Dan Garrison, Assistant Director, Housing Policy and Regulation
Abigail Bond, Director of Affordable Housing

FROM: Gil Kelley
General Manager, Planning, Urban Design and Sustainability

SUBJECT: Information on Motion B.10 Protecting Tenants from Renovictions and Aggressive Buy-Outs

This memo is in response to the request from Council for responses to specific questions on Motion B.10 from the Regular Council Meeting on November 13, 2018, "Protecting Tenants from Renovictions and Aggressive Buy-Outs" and following speakers heard on November 27 and 28, 2018.

Speakers on Motion B.10

In a demonstration of the significant concern and interest in the challenges facing Vancouver renters, over ninety residents signed up to speak to Motion B.10 on Protecting Tenants from Renovictions and Aggressive Buy-Outs. Council heard from a total of 56 speakers who presented to Council over two evenings, sharing their own personal experience with renovictions and demovictions, as well as the serious challenges facing their neighbors, friends, and communities. Particular concern was raised about individuals with intersecting vulnerabilities who are at especially high risk of evictions and homelessness, including seniors, families with children, LGBTQ individuals and youth, and Indigenous households. Speakers also emphasized the serious mental and physical health impacts of insecurity of tenure on renters, both when they are facing a potential eviction and when they are dealing with pressure from a landlord to move through aggressive tactics and 'buy-out' offers.

Several speakers were also organizers and advocates, who raised specific issues with City and Provincial policy and presented solutions for the City to consider. These speakers emphasized that the current framework of protections for renters facing renovations is insufficient to ensure security of tenure and affordability for renters in Vancouver. There were calls for City Staff to better align the City's Tenant Relocation and Protection Policy with guidance from the BC Supreme Court on the legality of evictions due to renovations, and to expand the coverage of the TRP policy to cover renters in secondary rental housing, including rented condominiums and basement suites. There were also calls for Council to seek authority from the Province to require Tenant Relocation Plans for all types of permits impacting rental housing, including building and trades permits, and to register and track buy-out agreements in order to provide better support and information to renters in these circumstances.

Staff have previously provided information to Council on options to address the issues and ideas raised in the Motion and by speakers, as well as additional ideas and opportunities that were raised through Staff consultation with the public and stakeholders. Several of these options are within City jurisdiction and will be actionable through intensive policy work and implementation planning. Doing so will require coordination across City departments and increased staff time and resources dedicated to both one-time planning and ongoing implementation. Other options would take longer, requiring new authority from the Province and significant additional resources and increased budget for implementation, inspections, and enforcement.

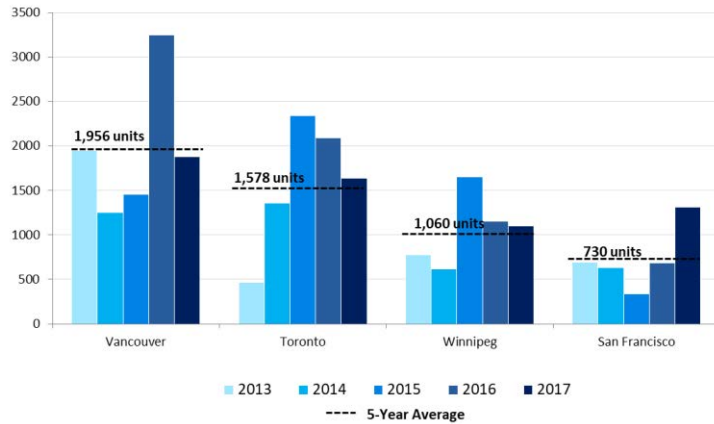
Staff have also provided preliminary responses to specific questions from Councillors in the section below, however many of these questions will require further research and analysis.

Responses to Councillor Questions

1. Is there research that shows rental housing starts don't decrease with vacancy control? What is rental construction in places where vacancy control exists?

- Research is mixed on the impact of vacancy control on rental construction. Economists have differing opinions. Some believe that rent control plays a dominant role in suppressing the market; others believe that there are many factors at play in the creation of new rental supply, and the impacts of rent control vary depending on the degree of the control and the prominence of other variables at play.
- The chart below shows rental starts from North American cities with rent control. It is difficult to attribute vacancy control solely to the renter start figures. There are many variables that impact the construction of rental housing, including the presence of government incentives that encourage new rental supply, land use policy and zoning, investment climate (e.g. interest rates), market rental rates, cost to acquire land, and the degree of the rent control measure.
- Vancouver's experience has been that it is the combination of all these factors that impacts the creation of new rental. Staff will be conducting further economic analysis into the viability of new rental housing as part of the review of the City's Rental Incentive programs. The review is currently underway and a report back to Council is expected in mid-2019.

Annual Rental Housing Starts in Major Cities With Vacancy Control



Source: CMHC Housing Starts and Completions Survey and 2017 San Francisco Housing Inventory

2. **Can Staff comment on Regulation 23 of the RTA that allows landlords to apply for additional rent increases for repairs and renovations?**
 - Staff has not conducted a detailed analysis on this issue, but have reached out to external renter serving organizations. Based on those conversations, our understanding is that this provision is not widely used. A possible reason could be that the test is quite strict - a landlord must prove that the repair is significant, that the issue was not reasonably foreseeable, and that the issue will not reoccur within a time period that is reasonable for the repair or renovation. An initial search did not uncover any cases where a rent increase for emergency repairs was approved under the RTA. Additional research would be required to fully understand and comment on the effect of Regulation 23.

3. **Can Staff comment on health consequences of renovictions for renters? *Note (the question also included the following concern): Staff will have missed important information that the speakers provided in their speeches and also in their handouts: information about how bad it is for their health to be renovicted and face the stresses it produces.***
 - Through our work with renters and consultation with health experts and community stakeholders on the development and implementation of the Tenant Relocation and Protection Policy, Staff heard from renters about the significant impact that renovictions and insecurity of tenure can have on renters' mental and physical health.
 - During the development of the TRP Policy in 2015, staff heard from the West End Seniors' Network and St. Paul's Hospital that health issues are more acute for renters with existing vulnerabilities, including seniors, people with disabilities, low-income households, and families with young children. This is why the TRP policy includes specific provisions requiring additional support and compensation for vulnerable tenants.
 - City staff taking calls from tenants in buildings with active Tenant Relocation Plans further indicate that a high proportion of individuals report stress and anxiety exacerbated by the required relocation.

- For renters who become homeless or precariously housed as a result of renovation, the health consequences of homelessness are profound and can have life-long consequences.
 - Staff have reviewed the public hearing video (see above, Speakers on Motion B.10) and can take a closer look at the information provided by speakers in more detail as part of the upcoming review of the Tenant Relocation and Protection Policy.
- 4. Implications for affordable housing in Vancouver if landlords are allowed to buy apartment buildings at inflated prices and then renovate tenants so they can charge higher rents? How many units are we likely to lose per year?**
- Staff have observed an increased incidence of renters being displaced for major and minor renovations or redevelopment of existing rental buildings. While there is no complete source of information on the number of renters evicted for these purposes, various data sources can be used to extrapolate the trend in renter impacts over the past decade. Staff currently track renter displacement due to Rezoning and Development Permit applications as part of implementing the City's Tenant Relocation and Protection Policy.
 - Since 2015, 1,605 units of purpose-built rental housing have been impacted by development applications involving major renovations or redevelopment of existing rental buildings that require a tenant relocation plan under the City's Tenant Relocation and Protection policy. Of these units, 13 per cent were occupied by long-term renters whose tenancies had been 10 years or more.
 - In addition, work being done under building permits are not covered by the City's Tenant Protection and Relocation Policy. Of the over 1,300 rental buildings that underwent renovation or redevelopment between 2009-2018, 550 buildings were issued building permits, which do not require a Tenant Relocation Plan.
 - While staff are tracking the volume and status of Council approved tenant relocation plans, the Housing Vancouver 3 Year work plan identifies the broader tracking of renters impacted by renovations and redevelopment as a gap in data collecting and reporting; work on this will commence in 2019.
- 5. Can Staff comment on requirements in both the RTA and the city's Standards of Maintenance bylaw that apartments be maintained in good condition?**
- Section 32 of the Residential Tenancy Act addresses landlord and tenant obligations to repair and maintain a rental unit. The RTA requires that a landlord must ensure the unit is suitable for occupation and is maintained to a standard that complies with health, safety and housing standards required by law. The RTA states that tenants are responsible for maintaining reasonable health, cleanliness and sanitary standards in their unit and in other parts of the property they have access to, and are responsible for the repair of any damage they cause, or is caused by any person they permit on the property. Tenants are not responsible for repairs for normal wear and tear that results from the reasonable use of a residential unit. The province's Residential Tenancy Policy Guideline 1 addresses landlord and tenant responsibilities in detail: <https://www2.gov.bc.ca/gov/content/housing-tenancy/residential-tenancies/calculators-and-resources/policy-guidelines/policy-guidelines-listed-by-number>

- The City's Standards of Maintenance By-law prescribes standards for the maintenance and occupancy of buildings to ensure that buildings are free from hazard and are maintained continuously in conformity with accepted health, fire, and building requirements. The Standards of Maintenance By-law applies to all buildings in the City. The By-law generally requires that property owners be responsible for addressing any work required in accordance with the by-law, however certain provisions may apply to other parties, including building managers, operators and occupants. The by-law addresses various types of internal and external elements, features and systems, including floors, walls and ceilings, interior fire and health safety hazards, plumbing and plumbing fixtures, and heating and electrical systems. The Standards of Maintenance By-law interfaces with other City By-laws, including the Fire By-law and Building By-law, which may influence the work or upgrades required, particularly in circumstances where an unsafe condition exists.

6. What are the actions that other cities like New Westminster are taking to protect against renovictions?

- The City of New Westminster has been taking a number of actions to protect renters from renovictions, including:
- Tracking sales of rental buildings through publicly-available information such as the Goodman Report and Costar. Tracking is done on an ad hoc basis, which helps inform the compilation of a renovictions watchlist.
- Notifying tenants when a building permit has been applied for that may result in a renoviction; Staff send a 2 page Tenants Rights hand-out on how the City and local renter serving organizations can assist and a TRAC Tenant Survival Guide to all tenants in the building. For more information on the hand-out, please see: https://www.newwestcity.ca/database/files/library/Tenants_Rights_October_2018.pdf
- City Buildings and By-law Enforcement staff are assisting renters who believe they are being renovicted by ensuring that landlords have the necessary permits and approvals in place prior to issuing an eviction notice and by employing stop work orders and tickets in situations where the necessary permits and approvals are not in place and demolition or major renovations/repairs are underway; and,
- The City of New Westminster is supporting the Tenant Resource and Advisory Centre (TRAC) to educate renters on their rights, by providing financial support to TRAC to provide free tenants' rights workshops for local renters

7. The City's memorandum dated November 14, 2018 re "Motion on Protecting Tenants from..." states that "there is little guidance in either case law or the RTA as to exactly what circumstances might result in a tenancy continuing during major renovations".

Can Staff please provide a full excerpt of Residential Branch Policy Guideline 2 and explain how this guideline does not provide clear guidance on what circumstances result in a tenancy continuing during major renovations, in particular in consideration of the section that states "section 49 (6) does not allow a landlord to end a tenancy for the purpose of renovations or repairs if any of the following circumstances apply:...it

is possible to carry out the renovations or repairs without ending the tenancy (i.e. if the tenant is willing to temporarily empty and vacate the unit during the renovations or repairs, and then move back in once they are complete - pages 3-4.

- The full excerpt of the Residential Branch Policy Guideline is included in this link: <https://www2.gov.bc.ca/assets/gov/housing-and-tenancy/residential-tenancies/policy-guidelines/gl02.pdf>
- Arbitrators at the Residential Tenancy Branch make their decisions within the applicable case law and the terms of the Residential Tenancy Act. The Guidelines issued by the Residential Tenancy Branch are intended to assist Residential Tenancy Branch staff and the public to address issues and resolve disputes. The guidelines are not laws and are subordinate to the RTA and the applicable case law.
- Guideline #2 summarizes the legal framework around the termination of tenancies for the Landlord's Use of Property and states that "If repairs or renovations require the unit to be empty and the tenant is willing to vacate the suite temporarily and remove belongings if necessary, ending the tenancy **may not** be required.(emphasis added)"

The guideline recognizes that the circumstances in which a tenancy may continue during major renovations vary from case to case when it uses the term "may not be required". As each circumstance and the ability of each tenant to vacate a premise can be entirely different, it is difficult to say definitively whether a tenancy in a particular situation may continue. There is also no guidance as to what "temporarily" means and what the status of the rent would be during the period of vacancy.

8. **Will staff have the Goodman report list, for example and the examples of the websites where apartment sellers are advertising that they can get higher rents? Will they have the "financials" from these sales advertisements? The speakers brought sales information that show that the expenses of running an apartment building are way less than the revenue the apartments produce, even with relatively low rents, and that owners could afford increased property taxes etc and still have revenue coming in from rents.**

- Staff can get access to the Goodman report and other publicly accessible real estate data on rental building sales. Some of the listings voluntarily include financial information such as gross income, operating expenses, and rent rolls. However, not all listings on their website include this type of information. Staff can review this information in more detail as part of the upcoming review of the Tenant Relocation and Protection Policy.
- Staff recently commissioned a Rental Reinvestment Study to better understand the condition of existing woodframe rental stock, feasibility of major capital and energy upgrades, and impact on tenants. Based on a survey to landlords and in-depth study of 3 representative rental buildings, the consultant found that standard upgrades are happening and do not require additional financing, but that major structural upgrades, such as building envelope upgrades, almost always require financing and may not be feasible for owners who are averse to taking on debt.

The consultant also found that most major upgrades are being done with occupants in suites in other types of multifamily housing (e.g. strata buildings), but that this it is more challenging to do this in rental as a result of noise and disruption to tenants, health risks associated with major work (e.g. asbestos) and the ability for landlords under the RTA to increase rents for new tenancies. See appendix F in the Staff Report for more information: <https://council.vancouver.ca/20180515/documents/p6.pdf>

I hope this information will be helpful to you in your deliberations on Motion B.10 this week.

As noted above, staff in PDS in consultation with others, are presently working on a review of the City's Tenant Relocation and Protection Policy which will be coming to Council in 2019. One option for Council at present would be to refer the content of Motion B.10 to staff to be considered as part of this policy review and to return to Council with policy language that addresses the intent of the motion.

Please do not hesitate to contact me further should you have any follow-up questions.

A handwritten signature in black ink, appearing to read 'Gil Kelley', with a long horizontal line extending to the right.

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